

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Priority Mail Contract 33 (MC2011-13)  
Negotiated Service Agreement

Docket No. CP2011-49

ORDER APPROVING AMENDMENT TO PRIORITY MAIL CONTRACT 33  
NEGOTIATED SERVICE AGREEMENT

(Issued June 11, 2013)

I. INTRODUCTION

The Postal Service proposes an amendment to Priority Mail Contract 33.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

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<sup>1</sup> Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 33, May 24, 2013 (Notice). The Amendment is attached to the Notice and labeled as Attachment A (Amendment).

In Order No. 641, the Commission approved Priority Mail Contract 33 (Contract).<sup>2</sup> On May 24, 2013, the Postal Service filed notice that it has agreed to the Amendment. The Postal Service subsequently filed supporting financial information and the certified statement required by 39 C.F.R. § 3015.5.<sup>3</sup> The Amendment establishes new contract prices and changes the annual price adjustment mechanism for subsequent years of the contract. Notice, Attachment A at 1-11. It bases the price increases for subsequent years of the Contract on the average increase in prices of general applicability for “Priority Mail Commercial Base” and “Priority Mail Commercial Plus” rather than the lower of the average increase in prices of general applicability for “Priority Mail Retail” and the most recent 12-month change in the Consumer Price Index – All Urban Consumers.<sup>4</sup> The Amendment also expands upon the responsibilities of the parties with respect to non-public information filed with the Commission. Notice, Attachment A at 11. The Postal Service asserts that the Amendment will not impair the ability of the Contract to comply with 39 U.S.C. § 3633. Supplement, Attachment B.

By its terms, the Amendment becomes effective one business day after the day that the Commission completes its review of the Notice. Notice, Attachment A at 1.<sup>5</sup>

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<sup>2</sup> See Docket Nos. MC2011-13 and CP2011-49, Order Approving Priority Mail Contract 33 Negotiated Service Agreement, January 6, 2011 (Order No. 641).

<sup>3</sup> Notice of the United States Postal Service of Filing Supplemental Materials for Amendment to Priority Mail Contract 33, May 28, 2013 (Supplement). As noted in Order No. 1734, for purposes of 39 C.F.R. § 3015.5(a), the Commission considers May 28, 2013 (the day the Postal Service submitted all information required under that section), to be the date of filing of the notice. Notice and Order Concerning Amendment to Priority Mail Contract 33, May 30, 2013, at 2 (Order No. 1734). In the future, the Postal Service should file all of its supporting information contemporaneously with its Notice.

<sup>4</sup> Notice, Attachment A at 11; Request of the United States Postal Service to Add Priority Mail Contract 33 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 17, 2010, Attachment B at 4 (Request).

<sup>5</sup> As discussed below, the Notice states that “[t]he amendment will become effective on the day that the Commission completes its review of this filing.” Notice at 1.

## II. COMMENTS

Comments were filed by the Public Representative.<sup>6</sup> No other interested person submitted comments. The Public Representative concludes that the Amendment will result in “prices which should generate sufficient revenues in the initial year to cover costs and thereby satisfy the requirements of 39 U.S.C. § 3633(a).” PR Comments at 2. He expresses some concern that the Postal Service did not provide data demonstrating that the new prices are likely to comply with 39 U.S.C. § 3633(a) in subsequent years of the contract, but finds that concern mitigated by the annual adjustment provision and the ability of the Commission to review the Contract in its Annual Compliance Determination. *Id.* at 3.

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that they meet applicable requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

The original Contract established prices that would apply in the first contract year and provided annual adjustments for each of the four subsequent contract years. Request at 2 and 4. The Amendment simply establishes “contract prices” and an annual adjustment for “subsequent years of the contract,” without specifying the contract year to which the new contract prices or the subsequent adjustments apply. Notice, Attachment A at 1 and 11. The contract prices described in section I.D. of the Agreement appear to be intended to apply to the third contract year and the annual adjustments described in section I.E. appear to be intended to apply in the fourth and fifth contract years.

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<sup>6</sup> Public Representative Comments on Postal Service Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 33, June 6, 2013 (PR Comments).

For the third contract year, the Amendment establishes four categories of prices, reflected on four tables labeled “A” through “D”. *Id.* at 1-10. For Tables A, B, and C, the Amendment bases the price increases for the fourth and fifth years of the Contract on the average increase in prices of general applicability for “Priority Mail Commercial Base.” *Id.* at 11. For Table D, the price increases for the fourth and fifth year are based on the average increase in prices of general applicability for “Priority Mail Commercial Plus.” *Id.* The original Contract calculated increases for all prices based on the lower of the average increase in prices of general applicability for “Priority Mail Retail” and the most recent 12-month change in the Consumer Price Index – All Urban Consumers. Request, Attachment B at 4-5.

The supporting revenue and cost data show that the Contract, as amended, should cover its costs during its third year. As the Public Representative notes, the Postal Service did not provide supporting financial data for the fourth and fifth contract years. However, the annual rate adjustment provision in section I.E. of the amended Contract should allow the amended Contract’s revenues to cover costs in years four and five. As part of the Annual Compliance Determination, the Commission will review the Contract’s financial performance for consistency with section 3633(a).

Based on its analysis of the supporting data, the Commission finds that the Contract as amended comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

*Other considerations.* The Notice states that the Amendment shall become effective on the day that the Commission completes its review. Notice at 1. However, the Amendment itself states that it “shall become effective one business day after the Commission issues all necessary regulatory approval.” *Id.* Attachment A at 1. While presumably the Amendment is controlling, the Postal Service shall promptly notify the Commission of the effective date of the Amendment.

The confidentiality provisions of section V of the Contract, as modified by the Amendment, are consistent with the Commission’s rules for the treatment of non-public

information. See 39 C.F.R. part 3007. They appear to have no effect on the ability of the contract to comply with 39 U.S.C. § 3633(a).

Within 30 days of the expiration of the Contract, as amended, the Postal Service shall file the annual (by contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the Contract.

In conclusion, the Commission approves the Amendment to Priority Mail Contract 33.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. As set forth in the body of this Order, the Commission approves the Amendment to Priority Mail Contract 33.
2. The Postal Service shall promptly notify the Commission of the effective date of the Amendment.
3. Within 30 days after Priority Mail Contract 33, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

By the Commission.

Shoshana M. Grove  
Secretary